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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Billed Party Preference	)	CC Docket No. 92-77
for 0+ InterLATA Calls	)	

REPLY COMMENTS OF GATEWAY TECHNOLOGIES, INC.

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Dated: August 17, 1992

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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REPLY COMMENTS OF GATEWAY TECHNOLOGIES, INC.

Gateway Technologies, Inc. ("Gateway"), by its attorneys, hereby submits these reply comments in connection with the Commission's proposal to adopt a scheme of billed party preference ("BPP") for interLATA operator services.[1]

INTRODUCTION AND SUMMARY

Although not addressed in the NPRM, several of the comments in this proceeding raise a specific issue of immediate concern to Gateway, one of the leading firms engaged in providing specialized communications services to state, county and federal correctional institutions: whether the Commission should extend its BPP proposal to inmate-only telecommunications services. In April 1991, this Commission agreed with Gateway that inmate-only services are not "operator services" provided to "aggregator" locations under TOSCIA[2] and the Commission's Rules; thus, carriers serving prisons for inmate services are not required to unblock access to other carriers.[3] The same legal and public policy

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[1] Billed Party Preference for 0+ InterLATA Calls, Notice of Proposed Rulemaking, 7 FCC Rcd. 3027 (1992)("NPRM" or "Notice"). By Order released July 31, 1992 (DA 92-1058), the Chief, Common Carrier Bureau extended the deadline for filing of reply comments until August 27, 1992.

[2] Telephone Operator Consumer Services Act, 47 U.S.C. § 226.

[3] Policies and Rules Concerning Operator Service Providers, Report and Order, 6 FCC Rcd. 2744, ¶ ¶ 9-15 and nn. 17, 30 (1991)("April 1991 Order"), citing Comments of Gateway Technologies, Inc. on Further Notice of Proposed Rulemaking, CC Docket No. 90-313, at 3-4 (filed Jan. 22, 1991)("Gateway

reasons for the Commission's 1991 decision apply to the issue of billed party preference. There is neither a legal basis nor need to apply BPP to correctional institutions—which are not "aggregators" and which face "an exceptional set of circumstances" quite different from customers of traditional operator services providers[4]—and doing so would undermine the compelling security and related needs of prison administrators. If the Commission decides to adopt a BPP requirement, it accordingly should not, indeed may not, be extended beyond aggregators and operator services providers already subject to the unblocking and other requirements of TOSCIA and the Commission's OSP Rules.

DISCUSSION

The Commission's NPRM in this proceeding makes clear that the proposal for billed party preference is designed to address call handling arrangements for "operator-assisted interLATA traffic."[5] Instead of routing operator-services traffic to the "OSP presubscribed to the originating line," BPP would require that all 0+ calls "be sent instead to the OSP chosen by the party paying for the call."[6] Although the NPRM did not include text of proposed amendments to the Commission's Rules, the NPRM's discussion suggests that such a BPP requirement would be applicable to those same parties on which TOSCIA and the Commission's Rules impose the requirement of unblocking access to other OSPs, i.e., "payphones and public phones in hotels, motels and other aggregator locations."[7]

FNPRM Comments").

[4] April 1991 Order, ¶ 15.

[5] NPRM, ¶ 1.

[6] Id. ¶ 9.

[7] Id. ¶ 6.

In its April 1991 Order in CC Docket No. 90-313, the Commission addressed Gateway's concern that the unblocking rules proposed for aggregators and OSPs might be construed to prevent carriers from providing inmate-only services to correctional institutions. As Gateway explained, prisons present unique and compelling fraud and security environments which have prompted correctional institutions administrators to demand a variety of blocking measures by their serving carriers, for instance blocking of "800" traffic, 911 calls, and calls to specific judges or witnesses. "Application of [TOSCIA] to firms such as Gateway and their customers . . . would expose correctional institutions to massive risk of fraud, prevent prison administrators from imposing reasonable and time-honored restrictions on inmate access to telephone service, and disrupt established service arrangements which incorporate blocking and other limitations demanded by correctional agencies."[8] Further, Gateway pointed out that under TOSCIA, Congress had given no indication of any intent to extend the unblocking requirement to inmate-only services, since prisoners are neither the "general public" nor "transient users" under the Act's definition of "aggregator."[9] Thus, Gateway urged that the Commission act to prevent "misapplication" of the Act by clarifying that "firms providing inmate-only services to prisons are exempt from the non-blocking and related requirements of the Act and the Commission's implementing rules."[10]

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[8] Gateway FNPRM Comments, at ii. A copy of these comments , incorporated by reference herein, is annexed as Attachment A for the Commission's convenience.

[9] Id. at 7-18. Other parties in reply supported Gateway's construction of TOSCIA. See April 1991 Order, ¶ 15 nn. 17-18.

[10] Gateway FNPRM Comments, at iii.

The Commission adopted Gateway's suggestion in its April 1991 Order, clarifying that "the definition of 'aggregator' does not apply to correctional institutions in situations in which they provide inmate-only phones," and that "the carrier providing service to inmate-only phones at correctional institutions would not fall under the definition of 'provider of operator services' as such service is not provided at an 'aggregator' location with respect to such phones."[11] The Commission explained that inmate-only service presents "an exceptional set of circumstances that warrants their exclusion from the regulation considered herein."[12]

Although not addressed in the NPRM, several of the comments in this proceeding address whether the Commission should extend its BPP proposal to inmate-only telecommunications services. Value-Added Communications urges that correctional institutions must be "excluded from the requirements of BPP."[13] APCC's Inmate Calling Service Providers Task Force reviews in detail the myriad type of call restrictions and specialized procedures required for inmate-only phones as well as the numerous state commission orders which have treated inmate-only services differently from traditional OSP services provided to the general public.[14] A number of state correctional departments and professional associations similarly pointed out the huge potential for fraud arising from uncontrolled inmate access to

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[11] April 1991 Order, ¶ 15 & n.30. Of course, "[a] carrier that provides service to phones at correctional institutions that are made available to the public or to transient users would have to comply with the requirements of the Commission's Rules and the Operator Services Act." Id.

[12] Id., ¶ 15.

[13] Comments of Value-Added Communications, at 5.

[14] Comments of the Inmate Calling Service Providers Task Force of the American Public Communications Council, at 3 n.3, 5-14.

operator services which would result from application of BPP to prisoner-only telephones.[15]

These policy concerns are just as present today as they were in 1991, and will not be repeated in detail here by Gateway. As the prime mover behind the Commission's 1991 clarification that inmate-only services are not subject to TOSCIA's unblocking requirements, however, Gateway suggests that the question of whether BPP should apply to inmate-only services has already been decided. It was settled in 1991 that correctional institutions are not aggregators and that carriers providing inmate-only services are not OSPs. The NPRM in this proceeding proposes nothing more than a revision in the OSP access requirements previously imposed on aggregators, for payphone and other public locations, under TOSCIA and Section 64.704(a) and (c) of the Commission's Rules.[16] All of the Commission's actions in the operator-services area have applied to those entities considered "aggregators" or "operator services providers" under Section 64.708 of the Rules,[17] and nothing in the NPRM proposes to alter this basis for Commission regulation. Since as noted above the Commission has not indicated any proposal to extend BPP beyond those parties already subject to the unblocking and related requirements of the OSP rules—and specifically has not proposed to broaden the definition of

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[15] See Comments the South Carolina Jail Administrators Association; Comments of the Arizona Department of Corrections; Comments of the Wisconsin Department of Corrections; Comments of the Utah Department of Corrections.

[16] 47 C.F.R. § 64.704(a), (c) provides that aggregators must allow consumers access to "800" and "950" access codes and must, on a phased-in schedule depending on equipment capabilities, unblock "10XXX" access to non-presubscribed OSPs.

[17] The definition of "aggregator" in 47 C.F.R. § 64.708(b) parallels that of TOSCIA, defining aggregator as a person making telephones available to "the public or transient users of its premises." Of course, prisoners are neither the general public nor are they merely transient premises

"aggregator"—the question of inmate-only services is simply not presented on this record.[18]

It would also make no communications policy sense to exempt correctional institutions from the underlying unblocking requirement but to impose a billed party preference requirement on them. Today, correctional institutions are permitted to limit inmate access to a single, presubscribed provider of operator services. Since the Commission's present policy thus authorizes blocking of OSP access in prison situations, there is no need to make more "user-friendly" methods of implementing carrier choice available.[19] Prisoners are appropriately denied choice of OSP today in order to meet the important security and fraud-control interests of correctional institution administrators; carrier choice becomes no more appropriate merely where, as under BPP, the billed party is not the inmate placing the call, but rather the recipient of a collect call from a prison. In fact, as Gateway explained in 1991, many prisons today limit all inmate calls to collect-only, thus undermining the very policy basis on which the Commission has proposed applying BPP to operator services in general.[20]

Accordingly, there is neither a legal basis nor need to apply BPP to correctional institutions—which are not "aggregators" and which face "an exceptional set of circumstances" quite different from customers of traditional

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[18] Extending BPP to inmate-only services on the basis of the NPRM in this proceeding, which does not even mention the issue, would raise significant due process and administrative law issues as well, since none of the parties has been provided with "fair notice" of any such contemplated Commission action.

[19] NPRM, ¶ 13 (BPP ensures "choice of carrier" without complex dialing requirements); id., ¶ 16 (BPP makes operator services more "user-friendly").

[20] Gateway FNPRM Comments, at 3.

operator services providers[21]—and doing so would undermine the compelling security and related needs of prison administrators. If the Commission decides to adopt a BPP requirement, it accordingly should not be extended beyond those aggregators and operator services providers already subject to the unblocking and other requirements of TOSCIA and the Commission's OSP Rules. In light of the absence of any discussion of inmate-only services in the NPRM, application of BPP to these parties would at the very least require a further notice, accompanied by identification of a legitimate legal and policy basis for such an unanticipated reversal of the Commission's April 1991 decision.

CONCLUSION

If the Commission adopts billed party preference, BPP should be limited to those parties already subject to the Commission's OSP rules for "aggregators" and "operator service providers," thus excluding correctional institutions and carriers offering inmate-only services.

Respectfully submitted,

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Dated: August 17, 1992.

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[21] April 1991 Order, ¶ 15.

ATTACHMENT A

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 90-313
Policies and Rules Concerning	)	RM-6767
Operator Services Providers	)	

COMMENTS OF GATEWAY TECHNOLOGIES, INC. ON FURTHER NOTICE OF PROPOSED RULEMAKING

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SUMMARY

Gateway is the leading firm in a specialized segment of the interstate communications market -- supplying equipment and automated collect-only telecommunications services to correctional institutions for use by prisoners. Application of the Telephone Operator Services Consumer Improvement Act of 1990 (the "Act") to firms such as Gateway and their customers, however, would expose correctional institutions to a massive risk of fraud, prevent prison administrators from imposing reasonable and time-honored restrictions on inmate access to telephone service, and disrupt established service relationships which incorporate blocking and other limitations demanded by correctional agencies.

The language of the Act and its legislative history demonstrate that Congress did not intend to include firms serving correctional institutions for inmate-only services as "operator services" providers subject to the Act, but rather to apply the Act to entities making telephones and services commercially available to the general public and travelling consumers. Unfortunately, firms such as Gateway providing service to correctional institutions for use exclusively by inmates are currently caught on the horns of a dilemma. While restrictions on inmate services are historically recognized within the telecommunications industry and by the federal courts, absent Commission action the Act and the implementing rules might be interpreted to apply to these services and make such restrictions unlawful.

This sort of misapplication of the Act and its requirements would wreak havoc with service for America's prison populations and effectively overrule state, county and federal prison administrators' decisions as to restrictions on the availability of telephone services for inmates. Accordingly, the Commission should exercise its authority under Section 226(g) of the Act to protect correctional institutions from fraud by making clear that firms providing inmate-only services to prisons are exempt from the non-blocking and related requirements of the Act and the Commission's implementing rules.

Before the
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In the Matter of	)	
	)	CC Docket No. 90-313
Policies and Rules Concerning	)	RM-6767
Operator Services Providers	)	

COMMENTS OF
GATEWAY TECHNOLOGIES, INC.
ON FURTHER NOTICE OF PROPOSED RULEMAKING

Gateway Technologies, Inc. ("Gateway") respectfully submits these comments on the Further Notice of Proposed Rulemaking ("Further Notice") in the captioned proceeding, released December 21, 1990 (FCC 90-417, Mimeo 38074).

INTRODUCTION

Gateway is the leading firm in a specialized segment of the interstate communications market -- supplying equipment and automated collect-only telecommunications services to correctional institutions for use by prisoners. Application of the Telephone Operator Services Consumer Improvement Act of 1990 (the "Act" or "AOS Act") to firms such as Gateway and their customers, however, would expose correctional institutions to a massive risk of fraud, prevent prison administrators from imposing reasonable and time-honored restrictions on inmate access to telephone service, and disrupt established service relationships which incorporate blocking and other limitations demanded by correctional agencies.

The language of the Act and its legislative history demonstrate that Congress did not intend to include firms serving

correctional institutions for inmate-only services as "operator services" providers subject to the Act, but rather to apply the Act's requirements to entities making telephones and services commercially available to the general public and travelling consumers. Unfortunately, firms such as Gateway providing service to correctional institutions for use exclusively by inmates are currently caught on the horns of a dilemma. While restrictions on inmate services are historically recognized within the telecommunications industry and by the federal courts, absent Commission action the Act and the implementing rules might be interpreted to apply to these services and make such restrictions unlawful.

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BACKGROUND

A. Gateway's Service and Customers

Gateway is one of the leading firms engaged in providing specialized communications services to state, county and federal correctional institutions. Penal institutions demand efficient,

low-cost and manageable telephone services for use by authorized inmates, and in particular, services which are specifically limited so as to eliminate fraudulent charges and control harassing or inappropriate inmate behavior.

To meet this objective, Gateway installs coinless phone terminals and microcomputer-based automated call processing equipment -- for use solely by prisoners -- that accept for completion only collect calls and support sophisticated call control and management techniques. Gateway processes inmate collect calls placed from such equipment, arranges for billing and collection of the traffic, and provides the services requested by the applicable state, county or federal correctional agency, Gateway's direct customer. Access to the telephones, and thus to Gateway's services, is strictly controlled by prison administrators, who decide which prisoners may make telephone calls, when they may call, and for how long they may do so.

The communications services available to inmates are defined and limited by the correctional institution or agency. Typically, prison administrators request or direct Gateway to block "800," "900," "950," "976" and all sent-paid or "1+" traffic placed from inmate telephones.[1] Prisoners are not permitted "10XXX" access to other carriers. Where call management techni-

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[1] Gateway prices its services no higher than the rates for the LEC and/or AT&T, as appropriate, imposes no surcharges or other fees on its customers or the inmate telephone users, and identifies itself to called (billed) parties prior to the commencement of charges, with an opportunity to disconnect.

ques such as those offered by Gateway are available, prisoners as well can be precluded from calling specific telephone numbers, for instance judges, jury members, witnesses, known drug dealers, and the like. Gateway is certified to provide intrastate telecommunications services (or operates pursuant to a PUC waiver) in each state in which it completes intrastate collect calls, and provides no services other than collect-only inmate services described above.

B. Application of the 1990 Act

The Act imposes several duties directly on operator services providers. Among other things, operator services providers must: (a) require their aggregator customers to post information "tent cards" near each telephone served; (b) require that aggregator customers not "block" consumer access to other operator services carriers via "950" or "800" access methods; and (c) withhold commissions from any aggregator customers that violate the non-blocking or information posting requirements. Act § 226(b).[2] The Act makes clear that it includes operator-assisted calls for which any billing or completion function is performed

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[2] Operator services providers were required to file "informational tariffs" with the FCC no later than January 15, 1991. Id. § 226(h)(1)(A). Although for the reasons discussed below, Gateway believes its operations are not covered by the Act, it has nonetheless complied with the Act's informational tariff requirements by filing such a tariff with the Commission on January 15, 1991. Gateway has thus not sought to ignore or avoid any responsibilities that the Act may place on it, but instead seeks through these comments to clarify the nature of any responsibilities it may be deemed to have under the Act.

automatically, even without the actual assistance of a live operator. Id. § 226(a)(7). In addition, the Act directs the FCC to conduct a rulemaking respecting operators services, initiated by the Further Notice in this proceeding, in which the Commission is instructed that it "shall require such actions as are necessary to ensure that aggregators are not exposed to undue risk of fraud." Id. § 226(g).

Compliance with the Act's blocking, tent card, and commission withholding requirements would wreak havoc with the correctional institution/inmate telecommunications market. First, consistent with traditional telephone industry practice towards correctional institutions, Gateway provides a sharply limited set of services to prisons for their inmate populations. These restrictions are established at the express directive of the correctional agency, and are often set forth in the earliest request for proposals for service to the institution and required by contract. One of the principal reasons for the collect-only limitation is to prevent correctional institution exposure to fraudulent telephone charges and schemes occasioned by inmates' access to other carriers' operators and calling card databases. Eliminating blocking from Gateway's equipment would thus defeat the central purpose of Gateway's relationship with its customers and make impossible prison administrators' application of reasonable limitations on inmate telephone service.

Second, Gateway and its correctional institution customers are largely incapable of complying with the tent card

posting requirement, under which operator services providers are obligated to ensure that their aggregator customers post the mandated notices at each telephone. As may be expected in environments as hostile and as prone to vandalism as correctional institutions, experience has shown that materials attached or affixed to telephones do not remain there for very long.

Third, "ensuring" adherence to the posting requirement, and complying with the mandate to withhold commissions from customers which block or fail to post, would be extraordinarily difficult and irrational. Gateway has no routine access to prison facilities to monitor equipment and tent cards. More significantly, Gateway provides service pursuant to contractual commitments which incorporate the blocking requirements demanded by its correction institution customers. Requiring the withholding of commissions would preclude application of these sensible service conditions and would unnecessarily expose firms such as Gateway to potentially significant liability for breach of contract.

DISCUSSION

The language and legislative history of the Act indicate that firms providing services exclusively to correctional institutions for use by prison inmates are not "operator services providers" subject to the Act's requirements. To eliminate any ambiguity in application of the Act and permit prison administrators to prevent fraud and control inmate populations, the Commission should exercise its authority under Section 226(g) of the

Act to clarify that services provided to inmates may be limited or restricted where directed by correctional institutions.

I. Firms Providing Services Exclusively to Correctional Institutions for Use by Prison Inmates are not "Operator Services Providers" Under the Act

Application of the Act turns on whether a carrier's operations constitute "operator services." Although it is clear that automated collect call completion services are regulated by the Act, Gateway and other firms serving correctional institutions provide service in a unique and limited set of circumstances. These special circumstances would exclude Gateway from the definition of "operator services" under the Act's language.

The AOS Act defines "operator services" derivatively, by reference to the Act's parallel definition of "aggregator." Under Section 226(a)(7), "operator service" means an "interstate telecommunications service initiated from an aggregator location that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call." In turn, "aggregator" is defined as a person that, "in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises for interstate telephone calls." Act § 226(a)(2). Read together, these two provisions indicate that to be classified as an operator services provider under the Act, a firm must provide live or automatic operator assistance for interstate calls placed from locations at which the owner ordinarily makes telephones available to the public or to transient users.

By providing telephones for inmate use, correctional institutions neither serve nor purport to serve either the general public or "transient" users of their premises. Incarcerated inmates are not ordinarily considered "the public," and certainly are not "transient users" of the prison's facilities. To the contrary, prisoners are denied their liberty in order to separate them from the public at large, and are sentenced to imprisonment at least in part to segregate them involuntarily for more than a temporary, transient period. Thus, because Gateway's equipment and services are provided solely for use by prison inmates, the Act's language indicates that Gateway's correctional institution customers are not "aggregators" under the Act, and therefore that Gateway is not providing "operator services" within the meaning of the Act.

This conclusion is reinforced by other statutory language. Most importantly, the Act recites as one of its congressional findings that operator services providers "now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business," Act § 2(3), all of which are commercial establishments providing services to the general public. In interpreting statutory terms, it is an accepted tenet that the existence of such illustrative examples is an appropriate basis upon which to construe broader language. Thus, in determining the scope of "aggregator," courts would likely conclude that some commercial or innkeeper-like ser-

vice to the travelling or general consuming public is a requisite characteristic of entities subject to the Act's requirements.[3]

Although the statutory terms do not expressly exempt inmate-only services, the Act's legislative history reveals a congressional objective to protect consumers by regulating services provided at telephones made available commercially to the general public. Restricting services at prison telephones made available to incarcerated inmates does not compromise this policy objective. Thus, the Act's history also does not suggest that Congress intended the Act to prevent correctional administrators from limiting inmate access to alternative carriers or service options -- an aspect of internal prison administration typically immune from federal supervision.

The legislative history of these definitional sections indicates that the Act is designed to apply to "operator services provided from telephones made available to the general public." (S. Rep. No. 101-439, 101st Cong., 2nd Sess. 2 (1990).)[4] The statutory language limiting "operator services" to services provided for calls initiated "from an aggregator location" first ap-

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[3] Moroever, the Act applies only to services provided to "consumers," and prison inmates are not routinely considered "consumers" in the ordinary uses of that term. As discussed below, inmates have traditionally not enjoyed the same access to telephone services and privileges applicable to ordinary consumers, suggesting that a general reference to "consumers" should not, without more, be construed to include prisoners.

[4] See Further Notice, Para. 1 (Act is intended to protect comnsumers making interstate telephone calls from "pay telephones and other public locations").

peared in the final version of the Act introduced in October 1990 by Senator Innoye. Cong. Rec. S14304 (Oct. 1, 1990). This change, however, merely incorporated expressly into the statute a construction of this language that had previously been included in the Committee reports on the bill (S. 1660) and its predecessor (H.R. 971). Each iteration of the Act defined "aggregator" with the identical language appearing in the final legislation, and expressed similar concerns for protecting members of the general public using OSP services at aggregators' public locations. For instance, in August 1989, the House Committee on Energy and Commerce issued a favorable report on H.R. 971, which stated:

> In these interstate markets, OSPs contract with businesses and institutions, such as hotels, airports, hospitals, and universities, to provide operator services through privately-owned payphones or telephone facilities. . . . These businesses and institutions select the operator service provider who is connected to their publicly available phones. . . . These businesses and institutions are commonly referred to as 'call aggregators.'. . .
>
> When the Committee uses the term aggregator, it means those who make telephones commercially available. In most of these cases the owners of the telephone receive a commission or compensation from the OSPs for calls delivered from those telephones to the OSPs. The Committee did not intend to include those who make telephones available to visitors as a courtesy.

(H. Rep. No. 101-213, 101st Cong., 1st Sess. 3, 15 (1989)("House Rep.")). A similar explanation appears in the 1990 Senate Report:

> Aggregators include hotels and motels, hospitals, universities, airports, gas stations, pay telephone owners, and others. . . . The definition of aggregator includes only a person

> that makes telephones available 'in the ordinary course of its operations.' This definition is not intended to include establishments such as law firms or corporations that make a telephone available in a lobby or other public place solely for the convenience of their customers. These entities typically receive no commissions or other compensation for making the telephone available. Thus, there is less need to protect a user of such a telephone by requiring the entity to unblock other access codes and otherwise comply with the provisions of this bill. . . .
>
> In addition, this definition [of operator services] is not intended to apply to telephone calls made from a residence or from telephones that are not made available to the public or to transient users. This definition applies only to calls from telephones made available to the public from aggregator locations. Finally, this definition only applies to interstate, interexchange carriers. . . .
>
> As with other provisions of this bill, this provision [precluding "800" and "950" blocking] only applies to telephones made available by aggregators to the general public or to transient users.

(S. Rep. No. 101-439, 101st Cong., 2nd Sess. 10-11, 19 (1990)("Senate Rep.")).

There is no mention of prisons or correctional institutions in the Act or its legislative history, and no indication that Congress intended the Act to apply to non-commercial, non-public governmental facilities. Plainly, correctional institutions are not the same generic type of public forum or accommodation establishment as hotels, airports and the like, and in making their telephones available to inmates function more as a

courtesy than as a commercial entity seeking additional profits from the general public.[5]

Even if Gateway's operations were clearly within the literal language of the Act, however, it is settled that conduct may be within the letter but not the spirit of the law -- "a thing may be within the letter of the statute yet not within the statute, because not within its spirit, nor the intention of its makers." United Steelworkers v. Weber, 443 U.S. 193, 201 (1979), quoting Holy Trinity Church v. United States, 143 U.S. 457, 459 (1892). The AOS Act's purpose clearly supports the conclusion that Congress did not contemplate including correctional institutions as "aggregators" subject to the non-blocking and posting requirements.

The Act's declared purpose is to "protect consumers who make interstate operator services calls from pay telephones, hotels, and other public locations against unreasonably high rates and anticompetitive practices." Senate Rep. at 1. The Act's supporters repeatedly expressed their frustration that consumers faced commercial exploitation by owners of public premises whose financial interests in funneling all calls to one carrier conflicted with the consumers' interest in reaching their carrier

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[5] The Commission's initial NPRM utilized a similar commercial-based definition of aggregators. "'Call aggregators,' as we use the term in this Notice, are entities that have telephones available for use by their customers, patrons, or other transient users. Aggregators include, for example, hotels, hospitals, airports, and universities." Policies and Rules Concerning Operator Service Providers, 5 F.C.C. Rcd. 4630, 4638 n.6 (1990).